

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:14-CV-00714-RJC-DSC**

SIRONA DENTAL, INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	
MICHAEL S. AUGINS,)	<u>ORDER</u>
MARIA SMITHSON AND)	
JOHN SMITHSON,)	
)	
Defendants/Third-Party Plaintiffs,)	
)	
v.)	
)	
MICHAEL S. AUGINS,)	
)	
Third-Party Defendant.)	
)	

THIS MATTER is before the Court on “Motion to Dismiss of Third-Party Defendant Michael S. Augins” (document #36) and “Plaintiff Sirona Dental, Inc.’s Motion to Dismiss Counterclaims” (document #38) both filed June 8, 2015. This matter was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1).

Rule 15 of the Federal Rules of Civil Procedure governs amendments to pleadings. Rule 15(a)(1) grants a party the right to “amend its pleading once as a matter of course,” if done within twenty-one (21) days after serving the pleading, Fed. R. Civ. P. 15(a)(1)(A), or, “if the pleading is one to which a responsive pleading is required,” a party may amend once as a matter of course, provided that it does so within “21 days after service of a responsive pleading or 21 days after

service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed. R. Civ. P. 15(a)(1)(B). The Rule further provides that “leave [to amend the pleadings] shall be freely given where justice so requires.” Fed.R.Civ.P. 15(a).

Defendants filed an Amended Counterclaim and Amended Third Party Complaint (document #41) on June 29, 2015, approximately twenty-one (21) days after receiving the two Motions to Dismiss. Therefore, they may amend their pleadings as a matter of course under Rule 15(a)(1)(B).

It is well settled that an amended pleading supersedes the original pleading, and that motions directed at superseded pleadings are to be denied as moot. Young v. City of Mount Ranier, 238 F. 3d 567, 573 (4th Cir. 2001) (amended pleading renders original pleading of no effect); Turner v. Kight, 192 F. Supp. 2d 391, 397 (D. Md. 2002) (denying as moot motion to dismiss original complaint on grounds that amended complaint superseded original complaint).

IT IS HEREBY ORDERED that:

1. “Motion to Dismiss of Third-Party Defendant Michael S. Augins” (document #36) is administratively DENIED as moot without prejudice.
2. “Plaintiff Sirona Dental, Inc.’s Motion to Dismiss Counterclaims” (document #38) is administratively DENIED as moot without prejudice.
3. The Clerk is directed to send copies of this Order to counsel for the parties, including but not limited to moving counsel; and to the Honorable Robert J. Conrad, Jr.

SO ORDERED.

Signed: July 6, 2015



David S. Cayer
United States Magistrate Judge
